

1 Honorable Richard A. Jones
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 TIMOTHY S. VERNOR, an individual,

11 Plaintiff,

12 v.

13 AUTODESK, INC., a Delaware
14 corporation,

15 Defendant.

No. 2:07-cv-01189-RAJ

JOINT STATEMENT, STIPULATION
AND ORDER FOR ENTRY OF
JUDGMENT

16 **JOINT STATEMENT AND STIPULATION**

17 Plaintiff Timothy S. Vernor ("Vernor") and Defendant Autodesk, Inc. ("Autodesk"),
18 by and through their attorneys of record, jointly file this statement and stipulation.

19 On March 16, 2011, this Court ordered the parties to file a joint statement setting
20 forth the manner in which they wish to proceed in this case. On March 31, 2011, counsel
21 for Vernor filed a Joint Statement on behalf of the parties informing the Court that Vernor
22 intended to petition the Supreme Court for certiorari to review the Ninth Circuit's decision.
23 The parties requested that the Court hold the case in abeyance while the case was pending
24 in the Supreme Court and stated that the parties would file a further joint statement setting
25 forth how they wished to proceed within 30 days of the Supreme Court's denial of the
26 petition for certiorari or final disposition of the case.

1 The petition for writ of certiorari was denied on October 3, 2011. On October 25,
 2 2011, this Court ordered Vernor to file a statement by November 4, 2011, explaining
 3 whether he wishes to pursue the remainder of the case. The parties file this Joint Statement
 4 and Stipulation in response to the Court's order and to address the remaining issues in this
 5 case.

6 In the Opinion of the United States Court of Appeals for the Ninth Circuit filed on
 7 September 10, 2010 in No. 09-35969 ("Opinion"), the Ninth Circuit vacated this Court's
 8 grant of summary judgment in Vernor's favor on Vernor's First Claim for Relief and
 9 remanded the case. The Ninth Circuit held "that because CTA is a licensee, not an owner,
 10 the 'sale' of its Release 14 copies to Vernor did not convey ownership. Vernor is
 11 accordingly not entitled to invoke the first sale doctrine or the essential step defense, on
 12 behalf of his customers." Opinion at 13887. The case was remanded for further
 13 proceedings consistent with the Opinion, including consideration of Vernor's copyright
 14 misuse defense.

15 In light of the Ninth Circuit's decision and the Supreme Court's denial of certiorari,
 16 Vernor no longer wishes to pursue his First Claim for Relief. The parties previously
 17 reached an agreement and filed a Stipulation for dismissal with prejudice of Vernor's
 18 Second Claim for Relief captioned "Unfair And Deceptive Practices." The parties hereby
 19 stipulate and agree that judgment should be entered in favor of Autodesk as to the
 20 remaining First Claim for Relief, including, without limitation, Vernor's copyright misuse
 21 defense, thus disposing of this case in its entirety.

22 Respectfully submitted,

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18 *Attorneys for Defendant Autodesk, Inc.*

19 *Attorneys for Plaintiff Timothy Vernor*

ORDER

PURSUANT TO STIPULATION, IT IS ORDERED THAT JUDGMENT BE ENTERED IN FAVOR OF AUTODESK AND AGAINST TIMOTHY S. VERNOR AS TO THE REMAINING FIRST CLAIM FOR RELIEF IN THE ABOVE-CAPTIONED MATTER, INCLUDING, WITHOUT LIMITATION, VERNOR'S COPYRIGHT MISUSE DEFENSE, THUS DISPOSING OF THIS CASE IN ITS ENTIRETY.

IT IS SO ORDERED.

Dated: November 7, 2011

Richard D. Jones

The Honorable Richard A. Jones
United States District Court Judge